

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HENRY RAMIREZ, :

Petitioner, : 04 Civ. 2967 (WHP) (JCF)

-against- : ORDER

DAVID L. MILLER, Superintendent, :
Eastern Correctional Facility,

Respondent.

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WILLIAM H. PAULEY III, District Judge:

Petitioner Henry Ramirez (“Ramirez”) filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 1999 conviction and sentence following a jury trial for assault in the first degree, two counts of assault in the second degree, reckless endangerment in the first degree and criminal possession of a weapon in the second degree in New York State Supreme Court, Bronx County. In a Report and Recommendation dated March 11, 2005 (the “Report”), Magistrate Judge James C. Francis IV recommended that the petition be denied. As of this date, petitioner has not submitted any objection to the Report nor requested an extension of time in which to do so. Respondent’s objections are not relevant to the outcome of the Report. This Court finds that the Report is not facially erroneous, and affirms and adopts it.

Accordingly, it is

ORDERED that this petition for writ of habeas corpus is denied; and it is

FURTHER ORDERED that because Ramirez has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253(c), as amended by the Antiterrorism and Effective Death Penalty Act of 1996. In

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addition, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438 (1962).

The Clerk of the Court is directed to mark this case closed.

Dated: December 19, 2007
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III

U.S.D.J.

Copies mailed to:

The Hon. James C. Francis IV
United States Magistrate Judge

Henry Ramirez
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